

AN

8005 d 31

ADDRESS OF THE CONVENTION

FOR FRAMING A

CONSTITUTION

OF

GOVERNMENT

FOR THE

PEOPLE OF NEW-HAMPSHIRE;

TO THE FREEMEN THEREOF,

Voted at their last Meeting, viz. on the

First Tuesday of June 1783.

46 10 23 474

PRINTED AT PORTSMOUTH.

M.DCC.LXXXIII.





TO THE
FREEMEN
OF
NEW-HAMPSHIRE.

BRETHREN *and* FELLOW-CITIZENS,

UPON examining the Returns, made to us in Convention, respecting the last Plan of Government, sent out for your consideration; we are happy to find that every article, except those which relate to the Executive Department, is accepted by the people. And, although there is a considerable majority for keeping the executive power separate from the legislative; yet there is such a diversity of sentiment concerning the manner, and hands, in which the same should be deposited, that the Convention have thought proper to offer the following alternative for your consideration, viz.

THAT, instead of a Governor, as proposed in the aforesaid plan, there shall be a President of the State, chosen by the people at large, in the same manner, and with the same qualifications as were therein required for a Governor; that, in lieu of the negative therein given to the Governor, the President of the State shall preside in the Senate; shall have a vote equal with any other member; and shall also have a casting vote in case of a tie.

THAT

THAT annually, upon the first meeting of the Assembly, two members of the Senate, and three from the House of Representatives, shall be chosen by joint ballot of both Houses, as an advisory Council to the President, for one year ; who, with the President, shall nominate and appoint all officers, civil and military, within the State, whose nomination and appointment were, by the aforesaid plan, intrusted to the Governor and Council ; and, upon such appointment, the President shall commission them accordingly : *Provided always*, That no appointment shall take place unless three of the Council agree thereto ; and not less than three of the Council, with the President, shall make a quorum for transacting other business in the executive department.

THE Members of the Council, shall not intermeddle with making, or trying impeachments ; but shall themselves be impeachable, by the House, and triable, by the Senate for mal-conduct.

THE President shall be Captain-General and Commander in Chief of the Army and Navy ; and shall have and exercise all the powers, intended by the aforesaid plan, to be vested in the Governor as such.

THE President, with advice of Council, shall have and exercise the same powers, as were therein given to the Governor and Council ; except as is herein before excepted.

THAT the paragraph, in said Constitution, respecting the Governor's salary, be expunged ; and that the President and Council be compensated for their services, from time to time, by such grants as the General Court shall think reasonable. **THAT**

THAT, in case of the death or removal of the President, the senior Senator shall have and exercise all the powers herein given to the President, until another President shall be chosen and sworn into office.---And in case of the death or removal of either of the Council, the Senate and House shall proceed to fill up such vacancy by a new choice.

THE Convention were not induced to offer the foregoing alternative, from a conviction that the alteration proposed, is more consonant to the principles of a free government, more conformed to the bill of rights, or better calculated to secure the liberty of the subject. The sentiments of the Convention on this point, are not only clearly expressed in the thirty-seventh article of the bill of rights ; but the reasons therefor have been repeatedly and explicitly stated in their addresses to the people. Every person acquainted with the nature of government, and with the designs and objects of the legislative, judicial and executive powers, must be deeply convinced that in every free constitution, these must be so distributed and arranged, as to prove mutual checks on the undue influence of either ; to effect which necessary and important end, they must be vested in different persons ; like three equal powers in mechanics, drawing in different directions, they must, in such a situation, control and be controlled by each other ; and consequently, while their force continues equal and opposite to each other, must confine the whole to one common centre. But should you give any two of the three a special relation, they will invariably assume the same direction ; and then

then the resistance of the third will become insufficient to counteract their united efforts: So the nature and end of the three before-mentioned powers of government, being essentially different, and opposed to each other, in their operation and effects, must be placed and kept in different hands, in order that each may exert it's proper influence, and prevent incroachments.

LEGISLATION being the supreme power in any government, the objects of it must be various and numerous, and its limits so extensive, as to render it almost impracticable to ascertain them; while those of the judicial and executive departments are so accurately defined, in every free State, that the least deviation may be detected and punished. The will of the legislator being the law of the subject, and the law of the land the line of conduct for the Executive Magistrate, it is scarcely possible to suppose that this Magistrate, even if despotically inclined, could destroy or injure the liberties of the people; while the powers of legislation, and the command of the wealth of every individual in the State, are lodged in other hands. But if both these powers were deposited in the same hands, they might overturn the whole political fabric, without the possibility of meeting an opposition from the people, sufficient to prevent their designs from being carried into effect.

THE President, proposed in the above alternative, is to have no check upon the Legislature; is rendered totally dependent on that body for his support; and is to have no exclusive right in the nomination of officers.

As

As more than a third part of the votes, returned, were against a Privy Council being elected as proposed in the last plan; we, conceiving that it might be more agreeable to the sentiments of the people to have a Council chosen out of the Legislature, have proposed that method. This is done with a view of removing some objections, made by the people, against the expence of a Privy Council and the powers of the Chief Executive Magistrate.

THE reason for taking the Council from both branches of the Legislature, and not from the Senate alone, was to give to each upon a miniature scale, a hand in the appointment of officers, and to prevent the mischiefs which might ensue, were the Council composed of the whole, or a greater part of the Senate: for in such case the Council could not be tried for mal-conduct upon impeachment, the Senate being solely invested with that authority: the natural and obvious consequences of such a measure would be to place the higher Executive Officers beyond the reach of impeachments; and it is not unnatural to suppose, that, upon the removal of this check, they might venture to pursue measures which when responsible for their conduct, they would not dare to attempt. Besides the reasons before assigned, it may easily be discovered, that a Senate, with such additional powers, would soon acquire undue influence over the other branch of the Legislature; and in time either wholly absorb, or render it of little importance in the political scale.

To avoid these evils, and to comply with the sentiments expressed in the returns from a great number

number of towns, we were led to adopt the before mentioned mode ; but at the same time were not insensible, that such arrangement is liable to many objections : That, in this way, the powers of Government must be blended, and their independency on each other in some degree destroyed : but as our former sentiments in this respect have not been adopted by the people, we are now under the necessity of proposing the only remaining plan, which (as men of integrity, intrusted by you with this important charge, and as men equally interested with yourselves in the event) we can with sincerity recommend.

THE Convention have determined that, at their meeting on the adjournment (which will be on the fourth Tuesday of October next) they will lodge Executive power, in the manner prescribed in the alternative, provided a majority of votes should then appear in favour thereof : but in case a majority should appear in favour of the mode proposed in the last plan, or any other, which you yourselves may devise, that mode will be adopted by the Convention, and the Constitution established accordingly ; and in case this alternative, or any new mode, should be agreed upon, the Constitution will be altered so far, and no farther, than is necessary to make the whole plan uniform, and consistent with the necessary alterations. The Convention have further determined, that, in case a permanent form of Government should then be adopted, the present Constitution shall remain in full force, until the officers, under the new form shall be invested with their respective trusts ; and that, in the mean time, the

members

members of Assembly under the present Government, shall make all the necessary arrangements for introducing the new Constitution at the time, and in the manner, therein prescribed.

THE general agreement of the people respecting other parts of the plan; the opportunity PEACE affords for cool and dispassionate consideration; the advantages, which must result from a regular and permanent form of Government, animate the Convention to persevere, and give the most flattering prospect of finding, at the adjournment, a majority of votes, at least, in favor of one or other of the plans now proposed; and of their having the satisfaction of being instrumental in establishing a political Constitution, which will diffuse, and transmit THE BLESSINGS OF FREEDOM TO GENERATIONS YET UNBORN.

GEORGE ATKINSON, President.

JOHN SULLIVAN, Secr'y. P. T.



May 1821

General Bellows

The American